

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 06-04 (1) (RHK/JSM)

Plaintiff,

ORDER

v.

Giber Lopez Cisneros,

Defendant.

On October 4, 2006, Defendant Cisneros was sentenced to a prison term of 120 months following his plea of guilty of possession with the intent to distribute methamphetamine in violation of 21 U.S.C. §§ 841(a) and 841(b)(1)(A). He now moves for “permission to appeal” his sentence on the sole ground that he did not receive a three-point reduction in his sentencing guidelines calculation for “acceptance of responsibility.”

Without addressing the untimeliness of the pending Motion, the Court has reviewed the subject plea agreement and the sentencing judgment in this case. It appears that the Defendant’s assertion that he did not receive a three-point reduction is simply wrong. The plea agreement contemplated said reduction and the Court determined that he was entitled to such a reduction. All of this was rendered moot, however, because the Court was required to, and did, impose a mandatory minimum sentence of 120 months.

Accordingly, and upon all the files, records and proceedings herein, Defendant's Motion for Permission to Appeal after Counsel's Failure or Refusal to Appeal Despite Defendant's Request (Doc. No. 29) is **DENIED**.

Dated: November 17, 2009

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge